## UNITED STATES DISTRICT COURT WESTERN DISTRICT OF NORTH CAROLINA CHARLOTTE DIVISION 3:19-cv-00039-FDW

AJANAKU MURDOCK,	)
Plaintiff,	)
VS.	)
	ORDER
FNU WILLIAMS, et al.,	)
Defendants.	) )
	,

**THIS MATTER** is before the Court on its own motion following the filing of a Motion to Dismiss by Defendants FNU Horne and FNU Williams [Doc. 19].

In accordance with <u>Roseboro v. Garrison</u>, 528 F.2d 309 (4th Cir. 1975), the Court advises Plaintiff, who is proceeding pro se, that he has a right to respond to Defendants' motion.<sup>1</sup> The Court also advises Plaintiff that failure to respond may result in Defendants being granted the relief Defendants seek—that is, the dismissal of the Complaint.

notices for motions to dismiss, and the Court does so here.

with the plaintiff, however, that there is another side to the coin which requires that the plaintiff be advised of his right to file counter-affidavits or other responsive material and alerted to the fact that his failure to so respond might result in the entry of summary judgment against him."); see also Norman v. Taylor, 25 F.3d 1259, 1261 (4th Cir. 1994) ("In Roseboro v. Garrison, 528 F.2d 309 (4th Cir. 1975), this circuit held that pro se plaintiffs must be advised that their failure to file responsive material when a defendant moves for summary judgment may well result in entry of summary judgment against them."). Nevertheless, courts routinely issue Roseboro

The Fourth Circuit did not hold in <u>Roseboro</u> that such notice is required for motions to dismiss. Rather, the Fourth Circuit's discussion in <u>Roseboro</u> regarding notice was directed to summary judgment motions. See Roseboro v. Garrison, 528 F.2d 309, 310 (4th Cir. 1975) ("We agree

## IT IS, THEREFORE, ORDERED that:

Plaintiff shall respond to the pending Motion to Dismiss [Doc. 19] within 14 days of service of this Order. Failure to file a timely response will likely lead to the dismissal of this lawsuit against Defendants FNU Horne and FNU Williams.

Signed: March 3, 2020

Frank D. Whitney

Chief United States District Judge